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Springfield Township wins court case against Cheltenham Transportation LLC

Published: Tuesday, September 03, 2013

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After several months of debate, Springfield residents concerned with seeing streams of 85 yellow buses running through the township can breathe a sigh of relief.

Montgomery County Court of Common Pleas Judge Bernard Moore ruled Aug. 29 that Cheltenham Transportation LLC, the bus company that is leasing a property in Oreland and is contracted with Cheltenham School District to deliver students, was in violation of Springfield Township code.

The judge ruled that the bus company owner, Eric Faust, is enjoined from conducting any demolition, construction or improvement in connection with the proposed uses on the property without a formal waiver subdivision and land development process. Faust was ordered to remove all buses, light poles, trailers, stone deposits and other “materials, activities and uses.”

Cheltenham School District noted that despite the ruling for Faust’s company, bus services will operate as planned for the first day.

“On Tuesday, August 29, 2013, the School District of Cheltenham Township was notified that its current bus company, Cheltenham Transportation, will not be able to utilize a proposed depot site in Springfield Township,” wrote the district in a prepared statement. “Cheltenham Transportation owner, Eric Faust, is committed to start the 2013-2014 school year fulfilling all of his contractual obligations with the school district from his East Falls site located at 2905 Abbottsford Avenue, Philadelphia, Pa. The District expects bus services to be delivered as planned.”

Faust did not return repeated calls for comment. His defense attorney John VanLuvanee declined to comment.

“The township believed at all times it was appropriate to permit the plans be examined by the engineer and consultants to make sure the permitted use wouldn’t result in harm to the residents, roads, streets of Springfield Township,” said James Garrity, the attorney who represented the township. “It’s hard on Cheltenham Transportation, but we have rules and we ask everyone to abide by those rules.”

“We thought we were correct, and that’s why we pursued,” Robert Gillies, president of the Springfield Township Board of Commissioners, said. “It’s a temporary relief as we continue through the process to get a good outcome. ... [Commissioner] Jim Dailey was important in pushing the commissioners to continue to pursue the defense of our land development and zoning.”

Neither Garrity nor Gillies knew if Faust would appeal.

With news of the ruling breaking in Springfield Township, some residents celebrated on social media.

“Wow. Great news for the ’hood,” wrote Paul Greenberg, using the handle @PaulieG3434, on Twitter.

Testimony wrapped up Aug. 26 in the court case between Springfield Township and Cheltenham

Transportation LLC.

In July, the township filed a preliminary injunction against the bus company, which is owned by Eric Faust. With complaints mounting from neighbors of the property at 1725 Walnut Ave., Oreland, the township had grown concerned with construction on the site, including the installation of a fence, stone work, lighting and bus storage. At several town hall meetings and board of commissioners meetings, residents expressed worry over environmental issues at the property because of its history as an EPA cleanup site. Residents also showed concern over the impact of traffic, considering the bus company wishes to house 85 school buses, plus nearly 80 cars from the bus drivers.

The township and the bus company had been in disagreement over whether the work being done at the property constituted land development.

Michael Savona, of Eastburn & Gray PC, cross-examined Township Manager Don Berger at the Aug. 26 hearing, while his partner VanLuvanee questioned their client, Faust.

Faust testified Tuesday that he told Berger exactly what his plans were for the nearly 8-acre Oreland site at their first meeting in mid-May.

Previously, Berger testified that Faust had originally investigated a site on Oreland Mill Road, the Richard Giuliani property, which had previously been leased to another bus company a few years ago.

Faust said the first meeting was to make sure a bus terminal was a permitted use and to tell Berger exactly what he was planning: to put up fencing, spread stone, install lighting and construct a pad for a fuel tank. The bus company owner testified that Berger made no mention of a need for land development.

Faust also made points Tuesday that he transformed the site from its "deplorable" conditions prior to his lease of the property. VanLuvanee also argued that Faust's expenses at the site should be considered, while Garrity dismissed Faust's expenses as irrelevant.

Faust testified he is able to fulfill his contractual obligations by using the property in its status quo condition, and VanLuvanee said his client is willing to obtain necessary permits for facilities at his site in the future. He acknowledged that down the road, what Faust wishes to do to fulfill his vision at the property may constitute land development.

"He just ignores us," Garrity countered. "He does whatever he wants to do."

Garrity pointed to one example of a moment Faust admitted to, in which Gillies asked Faust to stop constructing a fence and Faust refused.

Based on more than 20 years of experience in the transportation business, Faust testified Tuesday that he did not believe surrounding companies would be able to deliver the Cheltenham students starting Sept. 3 if his own company was forced to stop all operations. Faust cited bus drivers need clearances in order to transport students, and they may take months to obtain.

"[It would be] absolutely, positively impossible for anyone to do this Sept. 3," Faust said. "Forty-five hundred students will not go to school."

Faust also claimed he would go bankrupt if enjoined, considering the \$8 million he spent on a new fleet of buses to transport students.

VanLuvanee further pointed out that Faust and his company would suffer irreparable harm if told to stop work completely, thus breaching the contract Faust has with Cheltenham School District.

“Following that argument, if you need to perform the contract, you can ignore the law,” Garrity countered.

In his final remarks, Garrity put emphasis on the fact that Faust did request a land development waiver in early July. (This occurred before Faust had counsel.) Garrity also argued that if the court ruled in favor of Faust and not the township, the ruling would set a “truly disappointing” precedent for future land development issues and that without land development, there would be “almost anarchy.”

Garrity added that to not require land development puts the health, safety and welfare of township residents behind Faust’s desire to complete a contract.

“It is not the township’s fault that Faust, at the last minute, found a site in Springfield and didn’t go through land development,” Garrity said. “... Simply let us enforce the law.”

In Savona’s closing remarks, the defense attorney emphasized that his client was never instructed to go through land development by the township, and he argued that the language in the township’s ordinance relating to land development does not pertain to Faust’s site. He also took issue with the township’s zoning code, which he said hadn’t been updated since the 1940s. He also argued that the township’s approach to Faust dramatically changed once residents started to complain about the site, and Savona pointed to the municipal election year timing.

“The township never communicated land development was needed until there were complaints,” Savona said.

At the Aug. 26 hearing, Savona had suggested what he called a “middle ground” compromise in which Faust is allowed to operate his buses but also agrees to submit to the land development process for future work at the site.

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